

# HOUSE BILL REPORT

## HB 1844

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**As Reported by House Committee On:**  
Public Safety

**Title:** An act relating to creating the offense of unlawful branding of another person.

**Brief Description:** Creating the offense of unlawful branding of another person.

**Sponsors:** Representatives Mosbrucker, Rule and Graham.

**Brief History:**

**Committee Activity:**

Public Safety: 1/28/22, 2/1/22 [DPS].

<p><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Creates the crime of Unlawful Branding of Another Person.</li></ul>
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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Goodman, Chair; Johnson, J., Vice Chair; Mosbrucker, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Davis, Graham, Griffey, Hackney, Orwall, Ramos, Simmons, Thai and Young.

**Staff:** Phillip Craig (786-7291) and Kelly Leonard (786-7147).

**Background:**

Trafficking.

A person is guilty of Trafficking in the second degree when he or she: (1) recruits, harbors, transports, transfers, provides, obtains, or receives by any means another person, knowing that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act or a commercial sex act, or that the person has

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not reached the age of 18 years and is caused to engage in a sexually explicit act or a commercial sex act; or (2) benefits financially or receives anything of value from participation in a venture that has engaged in the above acts. The offense is Trafficking in the first degree if the acts involve kidnapping, sexual motivation, illegal harvesting of human organs, or result in a death. Trafficking is a class A felony. Trafficking in the first degree is a seriousness level XIV offense, and Trafficking in the second degree is a seriousness level XII offense.

Promoting Prostitution.

A person is guilty of Promoting Prostitution in the first degree if he or she knowingly advances prostitution:

- by compelling a person by threat or force to engage in prostitution or profits from prostitution which results from such threat or force; or
- by compelling a person with a mental incapacity or developmental disability that renders the person incapable of consent to engage in prostitution or profits from prostitution that results from such compulsion.

A person "profits from prostitution" if, among other circumstances, he or she accepts or receives "money or anything of value" in the exchange. Promoting Prostitution in the first degree is a class B felony and a seriousness level VIII offense.

A person is guilty of Promoting Prostitution in the second degree if he or she knowingly profits from prostitution or advances prostitution. Promoting Prostitution in the second degree is a class C felony and a seriousness level III offense.

Statute of Limitations.

A statute of limitations is a time limit for initiating prosecution after an offense is committed. Once a statute of limitations has expired, a prosecutor is barred from bringing charges against an alleged perpetrator. Statutes of limitations vary according to the crime. If a specific statute of limitations is not designated, the default time limit is three years. The statute of limitations for Trafficking is 10 years or, if the victim is under the age of 18, up to the victim's thirtieth birthday, whichever is later.

Classification of Crimes and Fines.

Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement (prison or jail) and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000

Class A Felony

Life

\$50,000

When a person is convicted of a felony, the Sentencing Reform Act applies and determines a specific range of confinement within the statutory maximum. Ranges are determined by a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history. Seriousness levels range from I to XVI, and offender scores can range from zero to nine or more points. A higher seriousness level or offender score results in a longer sentence.

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### **Summary of Substitute Bill:**

A new crime of Unlawful Branding of Another Person is created. A person is guilty of Unlawful Branding of Another Person if he or she knowingly:

- marks another person's body with a subdermal implant, tattoo, or body art, with the knowledge that the mark is intended to be used to track the person or mark the person for ownership as part of a plan or scheme to engage in Trafficking of the person or Promoting Prostitution of the person; or
- uses force, fraud, or coercion to cause a person to have his or her body marked with a subdermal implant, tattoo, or body art, for the purpose of tracking the person or marking the person for ownership as part of a plan or scheme to engage in Trafficking of the person or Promoting Prostitution of the person.

"Body art" includes the intentional production of scars upon the body.

Unlawful Branding of Another Person is a class B felony and a seriousness level VIII offense. The statute of limitations for Unlawful Branding of Another Person is 10 years after the commission of the crime, or, if committed against a victim under the age of 18, up to the victim's thirtieth birthday, whichever is later.

### **Substitute Bill Compared to Original Bill:**

The substitute bill changes Unlawful Branding of Another Person from a seriousness level X offense to a seriousness level VIII offense.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3, which because of a prior delayed

effective date, takes effect July 1, 2022.

**Staff Summary of Public Testimony:**

(In support) Historically, brands were placed on slaves as a sign of ownership, punishment, or intimidation. Today, men, women and children across the United States are being branded as part of trafficking schemes. Even an unassuming tattoo or brand can be a coercive mark of ownership that indicates to the victim that they are under the control of an abuser. Long after a victim is physically free from an abuser, a scar or tattoo serves as a constant reminder of trauma. A brand or tattoo can last forever, and unwanted branding invades a person's freedom and damages their self-worth.

The bill should be passed to hold abusers accountable. No one should be able to force or coerce another person into being branded.

Having a brand or tattoo removed through laser treatment is a long and painful process, but it is worth it to be free of the mark. The process can be prohibitively expensive, so some clinics have offered to perform the treatment on victims free of charge.

(Opposed) None.

**Persons Testifying:** Representative Gina Mosbrucker, prime sponsor; Tim Heffer, Hidden Creek Community Church and The Justice and Mercy Foundation; Darly Abbott; and Meg Heffer, The Justice and Mercy Foundation.

**Persons Signed In To Testify But Not Testifying:** None.